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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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4 UNITED STATES OF AMERICA,

04 cr 706 (DGT)

5 versus

United States Courthouse
225 Cadman Plaza East
Brooklyn, N.Y. 11201

6 ABUBAKR RAHEEM,

7 DEFENDANT.
8 -----x

9 July 2, 2008
10 9:30 a. m.

11 TRANSCRIPT OF TRIAL

Before: HON. DAVID G. TRAGER,
12 UNITED STATES DISTRICT COURT JUDGE

13 APPEARANCES

14 BENTON J. CAMPBELL
United States Attorney - Eastern District of New York
271 Cadman Plaza East
15 Brooklyn, New York 11201
STEVEN L. D'ALESSANDRO, ESQ.
16 SEAN T. HARAN, ESQ.
JAMES P. LOONAM, ESQ.

17 Assistant United States Attorneys

18 ATTORNEY FOR DEFENDANT:

19 RICHARD WARE LEVITT, ESQ.
20 BOBBI C. STERNHEIM, ESQ.
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23 Reporter: LISA SCHMID, CCR, RMR
225 Cadman Plaza East Rm 354E
24 Brooklyn, New York 11201
Tel: (718) 613-2644 Fax: (718) 613-2379
25 Proceedings recorded by mechanical stenography, transcription
by CAT.

LISA SCHMID, CCR, RMR
OFFICIAL COURT REPORTER

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUL 11 2008 ★
BROOKLYN OFFICE

1 THE COURT: It is about 12:15. We received a note
2 from the jury: "Dear Judge Trager, on Count Two, the RICO
3 conspiracy count, do we have to find the defendant agreed to
4 commit both A and B of a predicate racketeering act in order to
5 find that the defendant agreed to that racketeering act?"

6 And it's signed by someone whose signature I don't
7 recognize.

8 My own suggestion here is that I would answer the
9 question no, but I'll remind them that they have to find A or B
10 unanimously. Is that agreeable?

11 MR. LEVITT: Judge, my only additional thought would
12 be this. And I realize that there's law contrary to what I'm
13 about to say, but I want to make the record, anyway.

14 I don't believe that it's proper to -- I don't think
15 that you can legally establish as a racketeering act under RICO
16 a conspiracy, because it's really a conspiracy then to
17 conspire, which I don't think should be considered a proper
18 racketeering act. I will acknowledge that there's law to the
19 contrary, but I therefore object to the question being answered
20 no. However, if the Court nonetheless answers the question no,
21 then I agree with the additional language that the Court
22 proposed.

23 THE COURT: Do you have any problem with it?

24 MR. LOONAM: We have no objection to Your Honor's
25 proposal.

1 THE COURT: All right. And while I'm here, can I just
2 put on the record the other notes I had received yesterday?

3 Court Exhibit Number 1, which was their first request,
4 the person wrote, "Please send us Detective Kennedy's testimony
5 and any reports entered into evidence during his testimony."

6 Then I think Number 2, they asked for the testimony --
7 this is Court Exhibit Number 2, yesterday, around lunch time.
8 They also asked for the testimony of the cooperators, Dwayne
9 Meyers, Muhammad Ali and Allen Bryant, and that was sent into
10 them.

11 Note 3, "At what time are we allowed to leave today?"
12 Came about 4:30.

13 All right. So I'm going to write it out. Here, then
14 if you will just wait a minute, I'll print it.

15 Let's see if that's --

16 MR. LEVITT: Would the Court read it into the record,
17 just so --

18 THE COURT: Okay. "The answer to your question is no,
19 but I remind you that you must unanimously agree to A or B."
20 Is that all right?

21 MR. LOONAM: Yes, sir.

22 THE COURT: Okays. Thank you.

23 MR. D'ALESSANDRO: Judge, just for the record, the
24 defendant wasn't here for this conference. I understand
25 counsel is waiving his appearance.

1 THE COURT: He doesn't have to waive.

2 MR. D'ALESSANDRO: Very well. He doesn't have to
3 waive.

4 MR. LEVITT: Judge, should we take the lunch hour now?

5 THE COURT: Might as well. When is lunch going to be
6 here?

7 THE CLERK: They have already been given it.

8 THE COURT: They have already been given it?

9 THE CLERK: Yes.

10 MR. LEVITT: Okay.

11 THE COURT: Just give me your phone number. I have to
12 go out myself now for about an hour, so.

13 MR. LEVITT: Okay. Thanks, Judge.

14 (Recess)

15 (Proceedings concluded)

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